Supreme Court U.S.
FILED
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OFFICE OF THE CLERK

No.

In The
Supreme Court of the United States

S. B. DAVIS, JR.,
Petitioner

v.

MCKINLEY SIMMONS,
Respondent

and

ESTATE OF GLADYS LOUISE BARCLAY
Respondent

On Petition for a Writ of Certiorari to the Supreme Court of Virginia

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PETITION FOR WRIT OF CERTIORARI

Samuel B. Davis, Jr.
Pro Se Petitioner
VAMC Building 148 Room A-173
100 Emmancipation Drive
Hampton, Virginia 23667

QUESTIONS PRESENTED

1. Is the denial by the Supreme Court of Virginia of a petition for appeal of an order of the Circuit Court of the City of Newport News dismissing a petition for reinstatement entered over Petitioner's motion to present *ore tenus* evidence of fraud upon the court in the case of Davis v. Davis, Newport News Circuit Court Chancery No. 27095-RF pending upon Petitioner's motion to set aside the final decree of divorce on the grounds of fraud upon the court a denial of due process under the Fifth and Fourteenth Amendments to the Constitution of the United States?

PARTIES TO THE PROCEEDING

PETITIONER

S. B. Davis, Jr.

RESPONDENT

McKinley Simmons

Estate of Gladys Louise Barclay
Successor in interest to Louise Barclay Davis

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JURISDICTION

This case comes to the Supreme Court of the United States as a petition for a writ of certiorari on a final order of the Supreme Court of Virginia entered on January 3, 2007 in a civil matter.

STATEMENT OF THE CASE

This is an appeal of a final order of the Supreme Court of Virginia (Exhibit No. 1) denying Petitioner an appeal of an order of The Honorable Charles E. Poston, Judge Designate for the Circuit Court of the City of Newport News in the case of McKinley Simmons v. S. B. Davis, Jr. et al Chancery No. 19129 denying reinstatement of the case (Exhibit No. 2).

This order arises from a petition for reinstatement filed by Petitioner (Exhibit No. 3). Petitioner seeks to set aside the order entered by The Honorable Randolph T. West on March 27, 2002 (Exhibit No. 4) for fraud upon the court. As basis for this order Judge West cites an order entered by Retired Judge Designate James C. Godwin in the divorce suit Louise Barclay Davis and the Estate of Gladys Louise Barclay, successor in interest, Chancery No. 27095-RF (Exhibit No. 5).

Petitioner alleges in the petition for reinstatement that there is no such order by Judge Godwin, or if there is it is being concealed from him. Petitioner has been hospitalized since April 22, 2004. His records in this suit were lost when he was forced from the marital residence by a five-unit police raid to enforce an invalid court order. Further records were lost when Petitioner's residence was entered by someone leaving no signs of forcible entry and transcripts and legal papers taken. A television set and a Seiko watch were also stolen. Petitioner did not report the theft to the police. When reviewing a petition for a writ of prohibition filed with this court Petitioner discovered the order (Exhibit

No. 5) had been filed as an exhibit in a petition to the Supreme Court of the United States. Petitioner had appeared at the hearing that produced that order. Paragraph No. 3 of the motion to reinstate states:

> 3. That fraud upon this Court in the case of Louise Barclay Davis and the Estate of Gladys Louise Barclay, successor in interest v. Samuel Bunyan Davis, Jr. Chancery No. 27095-RF is fraud upon the court in this case.

Petitioner filed a motion to allow him to present *ore tenus* evidence of fraud upon the court. It was denied, causing this appeal.

Petitioner and his wife had formed Virginia Real Estate Trust, a Real Estate Investment Trust. The Trust had a line of credit loan of $250,000 with Bank of Virginia (now Wachovia); Petitioner and his wife personally endorsed the note. The interest rate on that loan rose as rates nationwide rose. In August, 1981 the rate on the bellwether 30 year U. S. Government Bond was 14%; New York City prime rate was 22%. The Trust's rate was 17%. Petitioner and his wife personally obtained a line of credit loan of $250,000 from Old Point National Bank, secured by a deed of trust on their marital residence and their office building in Hilton Village in Newport News. Bank of Virginia was paid off. Petitioner and his wife began returning investor's money. Of the 4,460 shares outstanding, all but 911 shares had been redeemed when McKinley Simmons walked off the job at 644 27th Street.

McKinley Simmons was licensed by the City of Newport News as a Class A Contractor. Simmons was married but separated from his wife, thus prohibiting him from freely owning and conveying real property. Petitioner formed a land trust for him and all transactions were done in the name of "S. B. Davis, Jr. Trustee of Simmons Land Trust".

Petitioner was heavily involved with Simmons on construction projects. The East End of Newport News was blighted and many lots were owned by Newport News Redevelopment and Housing Authority. Lots were not sold for speculative building. Simmons asked Petitioner for a loan to build a house for investment. Petitioner required a commitment for a permanent loan. Simmons finally obtained a permanent commitment from Atlantic Permanent Savings and Loan Association, Petitioner having to drive to Virginia Beach to get the written commitment. Petitioner bought the lot from NNR&HA for $2,000 titled "S. B. Davis, Jr. Trustee of Simmons Land Trust".

When the house was about three weeks from completion Simmons told Petitioner that the house had been sold to a young couple who had been approved for their loan. Through his real estate broker, Simmons tried to get Petitioner to give him the excess over advancements. Petitioner refused on the grounds that the purpose of the financing was to increase Simmon's net worth to provide additional collateral for other involvements. Simmons walked off the job. The house was quickly vandalized and became a haven for drug addicts.

Petitioner had previously taken title in the trust name and financed 621 27th Street. The property was sold, Simmons taking back a first deed of trust payable to the land trust. The purchaser made monthly payments to Petitioner which were immediately paid over to Simmons. Payments stopped when Simmons abandoned 644 27th Street. Simmons requested Petitioner to call on the trustees under the deed of trust to foreclose and when he refused filed the suit which is the subject of this appeal (Exhibit No. 6). Petitioner filed an answer and crossbill (Exhibit No. 7).

Petitioner retained an attorney, paying a retainer of $15,000. The suit was referred to Commissioner In Chancery Clyde M. Weaver. Commissioner Weaver held a hearing and took the testimony of Simmons and Petitioner.

Petitioner's attorney demanded that he settle with Simmons for less than Petitioner claimed was owed. When Petitioner refused to settle his attorney petitioned the court for leave to withdraw. The presiding judge, the Honorable Randolph T. West granted the petition stating "If your client will not follow your advice, you are entitled to withdraw".

Petitioner had difficulty finding an attorney. He finally located one from Richmond, paying another retainer of $15,000. A hearing was scheduled before Judge West with the second attorney scheduled to appear. The second attorney was charged with unethical conduct by the Virginia State Bar and sent his wife, also an attorney. The second attorney was unable to continue. A third attorney, a friend of Petitioner, offered to represent Petitioner without fee. The case proceeded and various properties were liquidated.

Petitioner determined to find out why the purchasers did not sue Simmons and located them through the grantee index to deeds at Hampton Circuit Court. On a Saturday in late November, 1990 Petitioner asked the purchasers why they did not sue. They explained that they asked their real estate broker about suing Simmons. The broker gave them the name of a lawyer who would advise them without fee. They consulted that lawyer who told them it would be useless to sue as Simmons had no assets and would declare bankruptcy if they got a judgment. The lawyer said if he could ever be of help for them to call and gave them his card. The purchasers could not remember the lawyers name but the husband suddenly remembered the card, looked in his wallet and found it. He had kept the card for over two years.

Petitioner filed an ethical complaint against Clyde M. Weaver with the Virginia State Bar. The Bar said he was acting in a quasi judicial capacity and they had no jurisdiction. Petitioner then filed a complaint with the Judicial Inquiry and Review Commission which also refused to act. Weaver was removed as Commissioner and J. W. Hornsby, Jr. was appointed.

Petitioner then filed suit in Federal Court under the Racketeer Influenced and Corrupt Organization Act naming the Virginia State Bar as the Enterprise. He sued Simmons, his own and other attorneys and real estate brokers. All parties were served. A number of defendants filed motions to dismiss, but no one filed an answer. Petitioner amended his suit to add a charge of violation of the Civil Rights Act. All parties were re-served. More motions to dismiss were filed and the District Court dismissed the suit. Appeal was taken to the Fourth Circuit Court of Appeals which also dismissed. Petitioner was sanctioned $500 for filing a frivolous suit. Properties were liquidated for the sum of $96,959.17.

All matters concerning the ownership of these funds and their relationship to the total property of Petitioner and his ex-wife and the equitable distribution thereof are found in the suit Louise Barclay Davis v. Samuel Bunyan Davis, Jr. in the Circuit Court of the City of Newport News, Chancery No. 27095-RF, now pending upon Petitioner's motion to set aside the final decree of divorce on the grounds of fraud upon the court.

Fraud No. 1 The bill of complaint for divorce was filed on July 25, 1995 by Kenneth B. Murov, attorney for Louise Barclay Davis. There was no duplicate copy furnished and no payment of the sheriff's fee.

Fraud No. 2 This was committed by Clerk of Court Rex A. Davis when he gave Murov the date of November 2, 1995 for a *pendente lite* hearing in a case that had not been served and was not pending before the court.

Fraud No. 3 This was committed by Murov when he instructed a private process server to post the bill of complaint minus a subpoena in chancery and notice of *pendente lite* hearing.

Fraud No. 4 This fraud was committed jointly by Judge Robert P. Frank, Clerk of Court Rex A. Davis and Kenneth B. Murov, Esquire when the hearing was held on November 2, 1995. A court is not properly constituted without the consent and presence of the clerk. There was no proof of service of process in the file. The clerk should have refused to allow the judge to hold the hearing. Kenneth B. Murov, Esquire knew there had been no proper service of process.

Fraud No. 5 On November 7, 1995 Robert P. Frank, Chief Judge of the Seventh Judicial Circuit and trial judge in Davis v. Davis notified the Supreme Court of Virginia that all judges of the circuit had recused themselves (Exhibit No. 8).

Code of Virginia Section 17.1-105
Designation of judges to hold court and assist other judges.

> B. If all the judges of any court of record are so situated in respect to any case, civil or criminal, *pending* in their court as to render it improper, in their opinion, for them to preside at the trial, unless the cause or proceeding is removed, as provided by law, *they shall enter the fact of record* and the *clerk of the court shall at once certify the same to the Chief Justice of the Supreme Court*, who shall designate a judge of some other court of record or a retired judge of any such court to preside at the trial of such case.

The case was not pending. There was no instrument of recusal entered of record. The clerk of court did not certify the recusal.

Fraud No. 6 On November 17, 1995 entered an order based on the November 2, 1995 hearing (Exhibit No. 9). This is the first order in this case and contains no statement of how the court acquired jurisdiction. The notation at the bottom of the order "the Defendant was

not present but was duly notified" proves that Judge Frank knew there had been no service of process.

Fraud No. 7 At approximately 5:00 p.m. on December 8, 1995 Petitioner received a very loud knock on his door from a Colonial Williamsburg "S" knocker. He asked through the door who it was. The reply was "police". Petitioner asked if they had a warrant receiving the reply "We have a court order". When Petitioner did not respond an officer said "Mr. Davis, you might as well open the door, we have a key". Petitioner turned the knob to open the door. Officers slammed the door open, throwing Petitioner into the hall wall. Terrified, Petitioner ran to his bedroom with the officers in hot pursuit. Two officers grabbed Petitioner, one on each arm. Petitioner was asked what he was doing, replying that he was getting a handkerchief. The officers relaxed their grip and watched him closely as he removed a handkerchief from a small bureau drawer. Petitioner returned to the living room and picked up his wallet and keys from a table beside his chair. He was asked what he was doing, replying that he was leaving. An officer "Mr. Davis, if you leave and come back you will be charged with trespassing". Petitioner got a leather jacket from the hall closet and opened the front door. His exit was blocked by two officers standing side by side. Petitioner forced his way between them. Petitioner was preparing to leave in his car when an officer from inside the house called out "Mr. Davis...come back...come back". Petitioner had to drive over the lawn to get by police cars in the driveway. Under the Freedom of Information Act Petitioner got a copy of the police log of the incident (Exhibit No. 10). The call was received at 1638 (4:38 p.m.). The first unit was dispatched at 1644 (4:44 p.m.). While this raid is not technically fraud upon the court, the fact of its existence would have been known to the Supreme Court of Virginia.

Fraud No. 8 On December 22, 1995 Associate Justice A. Christian Compton appointed Retired Judge James C. Godwin to preside (Exhibit No. 11). There is no written designation of Justice Compton by Chief Justice Harry L. Carrico. The designation was made without the certification by the clerk of court that a suit was pending and that all judges of the circuit had recused themselves.

Fraud No. 9 This fraud was committed jointly by lawyer Kenneth B. Murov and Clerk of Court Rex A. Davis. Lawyer Murov applied for a date for a *pendente lite* hearing with no intention of obtaining the personal service mandatory for such a hearing. Clerk Davis obtained from Retired Judge James C. Godwin a date he could come from Suffolk on a suit that had not been served and of which he had knowledge of a previous invalid order by Judge Robert P. Frank.

Fraud No. 10 Lawyer Murov furnished private process server Ned Massey III with the Bill of Complaint minus the Subpoena In Chancery and notice of *pendente lite* hearing and instructed him to post and videotape Petitioner removing it from the door. On May 7, 1995 Massey did as instructed. On May 9, 1995 he filed the Proof of Service (Exhibit No. 12).

Fraud No. 11 On May 10, 1996 Retired Judge James C. Godwin held a *pendente lite* hearing in a case in which the only service of the bill of complaint is by videotaping Petitioner removing it from the door. Clerk of Court Rex A. Davis is guilty of fraud upon the court for letting him do it.

Fraud No. 12 On June 12, 1996 Retired Judge James C. Godwin entered a *pendente lite* order based on the May 10, 1996 hearing (Exhibit No. 13). This order contains

the language "personal service on Defendant" This order is fraud upon the court by Retired Judge James C. Godwin, Clerk of Court Rex A. Davis and lawyer Kenneth B. Murov. This ruling that posting and videotaping is the basis for all future actions in this case and the taking of property of Petitioner and Virginia Real Estate Trust. Petitioner says that such a ruling is not the law in the Commonwealth of Virginia or the Seventh Judicial Circuit of Virginia.

Fraud Mo. 13 A Property Inventory was filed by Louise Barclay Davis.

Property Item	**Date of Purchase**	**Wife Wants**
40 Barclay Road, NN, VA marital home and road to it	lot before marriage home after	100%

By deed dated June 27th, 1958 recorded in the Clerks Office of the Circuit Court of the City of Newport News in Deed Book 111 at page 356 Maude M. Barclay conveyed the property to Louise B. Davis and Samuel B. Davis, Jr., wife and husband as tenants by the entirety

In depositions taken before Commissioner in Chancery E. Thomas Cox on December 16, 1996, on page 37 of the transcript Louise Barclay testified as follows:

Q. Now what year – do you remember what year your mother gave you the land where your current residence is located on? Do you remember when that happened?

A. Let me think.

THE COMMISSIONER: With reference to the time you were married.

THE WITNESS: Excuse me. It was probably the end of the '40s or the early '50s.

BY MR. MUROV:

Q. It was before you got married?

A. Oh, yes.

Q. And the lot was undeveloped at the time that your mother gave it to you?

A. Yes; it was raw property.

Q. What year did you and Sam build a house on there?

A. Probably '59.

Q. When you built the house, did you title the property in both your names as Tenants by the Entirety with the Right of Survivorship?

A. Yes.

Q. Is that how it is currently titled?

A. Yes.

Q. It is currently titled that way, correct?

Petitioner avers that if Louise Barclay Davis lived she could be charged with perjury. Kenneth B. Murov is guilty of subornation of perjury. In Virginia there is no statute of limitations on a felony.

Property Item	Date of Purchase	Wife Wants
628 Lee Street HAMPTON, VA	after marriage	50%

Property was titled "S. B. Davis, Jr. and Louise B. Davis, Trustees of Virginia Real Estate Trust"

515 Homestead Avenue HAMPTON,VA (rental property) H receives the rent	after marriage	50%

Property was titled "Virginia Real Estate Trust"

Payoff of VRET loan, $10,000	after marriage	W seeks 100%

Louise Barclay Davis is claiming 100% of money she admits was property of Virginia Real Estate Trust

Virginia Real Estate Trust (We ask that commissioner make no disposition since we don't know value)	after marriage	

Fraud No. 14 After a hearing on December 16, 1996 lawyer Kenneth B. Murov wrote a letter to Commissioner in Chancery E. Thomas Cox (Exhibit No. 14). Commissioner Cox considered this letter as evidence and marked it Plaintiff's Ex 15. This letter asks for complete ownership of 40 Barclay Road. If Murov knew that the property was held by Petitioner and his wife as tenants by the entirety under a deed from wife's mother, Maude M. Barclay he is guilty of a felony. This letter also states that 628 Lee Street, Hampton, Virginia and 515 Homestead Avenue, Hampton, Virginia are "jointly titled Real estate". If Murov knew that 628 Lee

Street was titled "S. B. Davis, Jr. and Louise B. Davis, Trustees of Virginia Real Estate Trust" and 515 Homestead Avenue was titled "Virginia Real Estate Trust" he is guilty of a felony. In Virginia there is no Statute of Limitations on a felony.

Objection to Report Commissioner in Chancery E. Thomas filed his report. Petitioner filed an objection to the report (Exhibit No. 15). The objection states:

> 3. The report of the Commissioner does not address the matter of approximately $75,000 held by this court in a suit styled McKinley Simmons vs. S. B. Davis, Jr.

Final Decree The final decree of divorce was entered on April 10, 1997 (Exhibit No. 16). The decree states:

> It is, accordingly, ADJUDGED, ORDERED and DECREED that the report of E. Thomas Cox, Commissioner in Chancery, be and it is hereby approved, ratified and confirmed in all respects, and ...

The decree does not ***incorporate by reference*** the report into the decree. The equitable distribution of property is not ***bifurcated.*** The decree becomes the final adjudication of all matters in the report. The decree could have bifurcated matters of equitable distribution which keeps it open for further examination. This was not done. Petitioner avers that if any matters of equitable distribution are considered the entire matter should be re-examined, including Plaintiff's perjured testimony and Murov's subornation thereof.

The decree states:

> Nothing further remaining to be done in this matter, it is ORDERED stricken from the docket and filed

among the ended causes

The decree does not address the funds in Simmons v. Davis. The decree remained under the control of Retired Judge Designate James C. Godwin for 30 days after entry. His designation as substitute judge expired for all purposes except those ordered by the Court of Appeals of Virginia. The final decree was appealed to the Court of Appeals of Virginia which dismissed. Petition for appeal was filed with the Supreme Court of Virginia which was denied. On September 3, 1998 a petition for a writ of certiorari *in forma pauperis* was filed with the Supreme Court of the United States.

Fraud No. 15 Gladys Louise Barclay died November 14, 1996. On August 24, 1998 Kenneth B. Murov filed a motion to reinstate the suit on behalf of the estate (Exhibit No. 17). He cites the order of the Court of Appeals of Virginia to determine attorney fees and adds "and other issues in this matter". That addition is fraud upon the court.

Fraud No. 16 On August 24, 1998 Kenneth B. Murov filed a notice and motion for relief (Exhibit No. 18), The Clerk's time stamp on this and the motion to reinstate are identical. Petitioner avers that the deputy clerk would not have accepted the motions, stamped and filed them without a cover letter and payment of the fee for reinstatement. Petitioner has tried unsuccessfully to obtain a copy of the letter from Clerk Davis.

Service of process Petitioner had a stroke on September 5, 1998 and lay unconscious on his bedroom floor for five days. Four newspapers accumulated on the driveway. A fifth was placed on the top of Petitioner's car. A neighbor saw it and called 911. On September 10, 1998 Petitioner was taken to the hospital. Petitioner received extensive surgery for an ulcer on his buttocks developed from his unconscious stay on

the floor. Petitioner remained in the Intensive Care Unit until 4:30 p.m. on September 18, 1998 when he was moved to a private room. At 5:05 p.m. on that date Petitioner was served with Notice and Motion for Relief by Ned Massey III in Room 439 (Exhibit No. 19).

Fraud No. 17 Petitioner filed a motion to quash and in it asked for a continuance based on his hospitalization (Exhibit No. 20). Judge Godwin refused the continuance writing across the bottom of the motion :"No appearance no Drs certificate Nothing to cause continuance other than mere allegation". Judge Godwin would not have denied the continuance and made the notation without argument from lawyer Murov that there was no proof of current hospitalization, a fact known to him to be false.

Fraud No. 18 Judge Godwin held the hearing on October 5, 1998. He entered an order on the hearing on November 9, 1998 (Exhibit No. 21). Petitioner avers that Paragraph 3, awarding attorney fees, is the only valid paragraph in the order. Particularly egregious is the following language in Paragraph 2:

> 2. That Plaintiffs' and Defendant's interest in the assets of the Virginia Real Estate Trust having previously been determined to be 50/50, ……

This is the first order after entry of the final decree, which made no such determination. Paragraph 9 purports to keep the cause on the docket. There is no order of reinstatement. Clerk of Court Rex A. Davis could have placed the case on the docket for determination of attorney fees. He committed fraud upon the court when he allowed Judge Godwin to consider matters other than attorney fees.

Fraud No. 19 In the spring of 1999 Petitioner continued to press Clerk Davis for an order of reinstatement that would

Fraud No. 19 In the spring of 1999 Petitioner continued to press Clerk Davis for an order of reinstatement that would justify the order entered November 9, 1998 based on the October 5, 1998 hearing. Clerk Davis sent a copy of Murov's letter and a copy of an order of reinstatement. This letter with the handwritten notation was Exhibit No. 9, page 22a in a petition to this court for a writ of certiorari (Exhibit No. 22). The notation "Called 2/4/98" led Petitioner to believe that the date of the letter, January 26, 1999 was a typographical error. Much later Petitioner got a true copy of the letter (Exhibit No. 23). Included with it was a copy of a postit implying that was how the notation was made (Exhibit No. 24).

Clerk Davis sent a copy of the order of reinstatement. This was a photo copy of the clerk's order book with the black edges. Petitioner did not observe that the order was entered March 24, 1999 (Exhibit No. 25).

The Supreme Court of the United States refused to consider the petition for a writ of certiorari and Petitioner petitioned for a rehearing. While this was pending Petitioner received a motion for relief and notice of a hearing on December 3, 1999. Petitioner moved to disqualify Judge Godwin and counsel Kenneth B. Murov. The hearing was held and on January 6, 2000 Judge Godwin entered the order (Exhibit No. 5). Petitioner appealed to the Court of Appeals of Virginia which dismissed on procedural grounds. The Supreme Court of Virginia upheld the ruling. Petitioner petitioned the Supreme Court of the United States for a writ of certiorari, contesting the procedural grounds. It was docketed as No. 00-5609. This is the appeal in which Exhibit No. 22 was Exhibit No. 9.

The Supreme Court of the United States denied the petition for a writ of certiorari. On May 29, 2001 Petitioner filed a motion for reinstatement of this case on the docket of

the court. The Supreme Court of Virginia designated retired Judge James C. Godwin to preside. Judge Godwin reinstated the case on the docket. On June 4, 2001 Petitioner filed a third petition for a writ of certiorari which was docketed on June 8, 2001 as No. 00-1825. This petition charged that the use of retired judges violated the constitutional right of equal protection of the laws as they are not subject to reappointment by the General Assembly as are active judges, they are not subject to discipline and holding no office are not subject to impeachment. The Supreme Court of the United States denied the petition.

Petitioner filed a motion for Judge Godwin to disqualify himself or to recuse himself. There has been no ruling on that motion. The case is pending.

The Estate filed a petition to intervene in McKinley Simmons v. S. B. Davis, Jr. which was granted. Petitioner filed a motion for Judge Randolph T. West to recuse himself. Petitioner filed a cross-claim. A hearing was held and an order entered giving the estate half of the money (Exhibit No. 26). Petitioner was unable to appeal because he could not post the appeal bond, set at twice the amount of Petitioner's interest. Petitioner filed a motion to reinstate which brings us to the current controversy.

On December 3, 2002 Virginia Real Estate Trust filed a petition to intervene in the reopened divorce suit (Exhibit No. 27). The petition documents with deeds the ownership of 628 Lee Street and 515 Homestead Avenue. On February 14, 2003 Judge Godwin denied the petition (Exhibiy No. 28).

REASONS FOR GRANTING THE PETITION

Petitioner avers that he has been deprived of property without due process of law as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States.

The lack of due process complained of is the refusal of the trial court to allow presentation of evidence of fraud upon the court in the case of the divorce suit, Davis v. Davis. This court has no evidence before it and can only rely on **ORDERS** entered in other cases by courts of equal dignity. This court is not permitted to examine and base its decision on pleadings, transcripts and in this case the report of the Commissioner in Chancery because it was not **INCORPORATED BY REFERENCE** into the final decree.

Intervenors are trying to do what Louise Barclay Davis could not have done had she lived. Any motion by her would have opened up all matters of equitable distribution, including her perjured testimony.

CONCLUSION

Petitioner prays that the Court issue a Writ of Certiorari to the Supreme Court of Virginia directing it to remand this case to the Circuit Court of the City of Newport News with instructions to reinstate the case on the docket and have a trial on the merits.

Respectfully submitted,

S. B. Davis, Jr.
Pro Se Petitioner
100 Emancipation Drive
Hampton, Virginia 23667

(2) 3/30/07

No. 06-1324

In The
Supreme Court of the United States

S. B. DAVIS, JR.,

Petitioner

v.

MCKINLEY SIMMONS,

Respondent

and

ESTATE OF GLADYS LOUISE BARCLAY

Respondent

APPENDIX

Samuel B. Davis, Jr.
Pro Se Petitioner
VAMC Building 148 Room A-173
100 Emmancipation Drive
Hampton, Virginia 23667

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday ***the*** 3rd ***day of*** January, 2007.

S. B. Davis, Jr., Appellant,

against Record No. 061736
Circuit Court No. 19129-RW

McKinley Simmons, et al., Appellees.

From the Circuit Court of the City of Newport News

Upon review of the record in this case and consideration of the argument submitted in support of the granting of an appeal, the Court is of the opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

A copy,

Teste:

Patricia L. Harrington, Clerk

By: **signature illegible**
Deputy Clerk

Exhibit No. 1

VIRGINIA: IN THE CIRCUIT COURT OF THE
CITY OF NEWPORT NEWS
Seventh Judicial Circuit

McKINLEY SIMMONS,
Plaintiff

v. Chancery No. 19129-RW

S. B. DAVIS, JR., et al
Defendants

ORDER OF PRE-FILING INJUNCTION AND DENYING MOTION TO REINSTATE

This matter is before the Court upon S. B. Davis's, motions to reinstate this matter and for an *ore tenus* hearing. The Court has considered the many written submissions Mr. Davis has filed, the Court's files regarding this matter, and the related matter of *Louise Barclay Davis v. Samuel Bunyan Davis, Jr.* (Newport News Circuit Court Chancery Number 27095) to which Mr. Davis refers frequently in his submissions. That case is the divorce suit between Mr. Davis and his former wife. The Court also considered the oral argument presented by Mr. Davis, proceeding *pro se* on May 11, 2006.

Mr. Davis' moved the Court to reinstate this cause "for the purpose of setting aside the final order entered by the Honorable Randolph T. West on March 27, 2002 for fraud upon the court." In support of that request for relief,

Exhibit No. 2

Davis asserts in his written motion:

1. That the final order entered by Judge Randolph T. West on March 27, 2002 contains the Following:

   "The Supreme Court of Virginia upheld Judge James C. Godwin's ruling that the funds in question were marital property and should be divided 50/50 between Mr. Davis and the Estate of Mrs. Davis."

2. That the Defendant says there is no such order by Judge James C. Godwin or if there is, it is being Concealed from him by counsel for the estate Kenneth B. Murov and Clerk of Court Rex A. Davis.

The Court has reviewed its file in this matter and finds that all matters in controversy were resolved by the decree entered March 27, 2002, by the Honorable Randolph T. West. In that decree the Court did, indeed, refer to the decree entered by the Honorable James C. Godwin. All underlying issues raised by Davis in support of his motion have been considered and resolved by the Court in prior years. Nothing new has been presented by Davis in the motion at bar. The Court has reviewed the decrees entered by Judge Godwin and Judge West and finds no inconsistency in the provisions of those decrees. It is clear from the record of these cases that Mr. Davis has presented his claims to the Court a number of times. The Court's rulings, speaking through several judges, consistently denied his claims. In the instant motion, Mr. Davis seeks to litigate these matters yet again by claiming that a fraud has been perpetuated upon the Court. He has not alleged even an arguable case of fraud upon the Court. His motion for an *ore tenus* hearing is DENIED, as is his motion to reinstate.

Mr. Davis has a legal education and, as he stated during oral argument, was a practicing lawyer until he was disbarred. From his education, experience, and the expertise he demonstrated during oral argument, he is skilled in the law. His most recent filings are without foundation and are frivolous. From a review of the files in this case and his divorce case, the Court is convinced Mr. Davis is abusing the judicial process by his numerous, already-litigated claims. His actions have also caused the targets of his pleadings to suffer vexations and to expend funds to defend themselves from his attacks. Furthermore, his numerous filings have burdened the resources of the judicial system by consuming the time of judges, the Clerk of Court's office, the Sheriff's office, and other support staff. Although it is clearly in the public interest for citizens to have access to the Courts to resolve their disputes, once the disputes are resolved, they are not entitled to relitigate the issues *ad nauseam.*

The Court *sua sponte* ORDERS that S. B. Davis, Jr., is restrained and enjoined from making any further filings in this Court or any other court of the Commonwealth of Virginia without first obtaining leave of the court in which the action is to be instituted. The Court also ORDERS that S. B. Davis, Jr., may seek leave of court pursuant to the following procedure:

1. He shall inform the court in question of pertinent facts concerning the action to be brought, including the existence of this injunction order and of any outstanding litigation against the proposed defendant.

2. He must advise the court in question that he is required by this injunction to obtain leave of court to file the action.

3. He shall file with his complaint or other initial pleading a motion captioned "Motion Pursuant to Court Order Seeking Leave to File" and attach a certified copy of this Order as Exhibit 1 to that motion.

4. He shall attach, as Exhibit 2 to that motion a sworn aqffidavit under penalth of perjury that the claim he wishes to present is a new claim never before raised in any court and that such claim is neither frivolous nor intended to harass.

5. He must attach as Exhibit 3 to that motion an identification of each and every suit filed by him or on his behalf in any court against each and every defendant against whom he wishes to file. Further, he must attach as Exhibit 4 to that motion a copy of each such complaint and a certified record of its disposition.

6. He must serve a copy of this Order on each defendant if and when leave to serve his complaint or other initial pleading in the new case is granted.

The Court further ORDERS that failure to comply with the terms of this Order may be sufficient grounds for a court to deny any motion for leave to file made by S. B. Davis, Jr., and, further, that failure to advise a court in which he has filed lawsuit of this Order may be considered by the appropriate court as sufficient grounds to dismiss such a lawsuit.

The court further advises S. B. Davis, Jr., that failure to comply with the terms of this order may be punished through the contempt powers of the Court.

Let the Clerk cause a certified copy of this Order to be served upon S. B. Davis, Jr., and, further, let the Clerk

mail certified copies of this Order to S. B. Davis, Jr., Kenneth B. Murov, Esquire, and James Ellenson, Esquire.

IT IS SO ORDERED

ENTERED THIS 12TH DAY OF MAY, 2006

Charles E. Poston

Charles E. Poston
Judge Designate

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

McKinley Simmons
Plaintiff

v. In Chancery No. 19129-RW

S. B. Davis, Jr.
Defendant

And

Louise Barclay Davis and the
Estate of Gladys Louise Barclay,
Successor in Interest
Intervenor

MOTION TO REINSTATE

Now comes the Defendant S. B. Davis, Jr. pro se upon his oath and moves the Court pursuant to Code of Virginia Section 8.01-428 (D) to reinstate the above captioned case upon the docket of this court for the purpose of setting aside the final order entered by the Honorable Randolph T. West on March 27, 2002 for fraud upon the court, and says as follows:

1. That the final order entered by Judge Randolph T. West on March 27, 2002 contains the following:

"The Supreme Court of Virginia upheld Judge James

Exhibit No. 3

C. Godwin's ruling that the funds in question were marital property and should be divided 50/50 between Mr. Davis and the Estate of Mrs. Davis."

2. That Defendant says there is no such order by Judge James C. Godwin or if there is, it is being concealed from him by counsel for the estate Kenneth B. Murov and Clerk of Court Rex A. Davis.

3. That fraud upon the Court in the Case of Louise Barclay Davis and the Estate of Gladys Louise Barclay, successor in interest v. Samuel Bunyan Davis, Jr. Chancery No. 27095-RF is fraud upon the court in this case.

S. B. Davis, Jr.
S. B. Davis, Jr. pro se

S. B. Davis, Jr. pro se
VAMC Building 148 Room A-173
100 Emancipation Drive
Hampton, Virginia 23667

Commonwealth of Virginia

Sworn to and subscribed before me **Gayle O. Avila** Notary Public on the **14th** day of September, 2005 by S. B. Davis, Jr.

Gayle O. Avila
Notary Public

My commission expires **December 31, 2005**

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of September, 2005 I mailed a copy of the foregoing Petition to James S. Ellenson, Esquire, counsel for the McKinley Simmons to 2700 Washington Avenue, Newport News, Virginia, 23607 and Kenneth B. Murov, Esquire, counsel for Louise Barclay Davis and the Estate of Gladys Louise Barclay, successor in interest to 716 J. Clyde Morris Boulevard, Suite B, Newport News, Virginia, 23601.

S. B. Davis, Jr.

S. B. Davis, Jr.

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF NEWPORT NEWS

MCKINLEY SIMMONS, Plaintiff,

v. CHANCERY NO. 19129-RW

SAMUEL BUNYAN DAVIS, JR., Defendant
and

LOUISE BARCLAY DAVIS and the
ESTATE OF GLADYS LOUISE BARCLAY,
Successor in Interest to Louise Barclay Davis
Intervenor.

ORDER

THIS CAUSE came on the 22nd day of March, 2002, upon Intervenor's Request for disbursement, Plaintiff not present, Defendant present, Intervenor present present with counsel, the evidence heard ore tenus and was argued by counsel.

Upon consideration whereof and for good cause shown, it is ADJUDGED, ORDERED AND DECREED as follows:

1. That the Clerk of the Circuit Court of the City of Newport News disburse to the Estate of Gladys Louise Barclay 50% of the current value of all monies being held related to this cause including the monies originally deposited in the amount of $96,959.17 and the amount of $22,039.78.

2. That the Clerk of the Circuit Court of the City of Newport News disburse to Samuel B. Davis, Jr. 50% of the

Exhibit No. 4

current value of all monies being held related to this cause including the monies originally deposited in the amount of $96,959.17 and the amount of $22,039.78.

3. That Defendant's Motion to Recuse and his Cross-Claim are dismissed.

4. That Intervenor's Demurrer to Cross-Claim is denied.

5. That the appeal bond in this cause shall be twice the amount of Defendant Samuel B. Davis, Jr.'s interest in the monies set forth in paragraph 2 hereinabove.

6. That a copy of this Order shall be forwarded by counsel for the Intervenor to Defendant Samuel B. Davis, Jr. at 437 Winterhaven Dr., Newport News, Virginia, and the aforesaid Order will be presented for entry by the Court at 9:30 a.m.

All matters in this suit, with the exception of disposing of Lots 58 and 59 on 27th Street in Newport News, Virginia, and the disbursement of funds now in question were settled by this Court's Order dated July 5, 2000. Plaintiff and Defendant noted objections to the Order but neither perfected an appeal. The property located on 27th Street, Newport News, Virginia has since been conveyed to the Defendant by Paul Kerr, Special Commissioner.

Paragraph 5 of the above-mentioned Court Order provided that no disbursement of funds was to take place until the appeal of Davis v. Davis (Chancery No. 27095-RF) had been concluded. The Supreme Court of Virginia upheld Judge James C. Godwin's ruling that the funds in question were marital property and should be divided 50/50 between Mr. Davis and the Estate of Mrs. Davis.

Nothing further to be done in this case, it is ORDERED that it be stricken from the docket.

ENTERED this **27** day of **March**, 2002.

Randolph T. West
JUDGE

I ASK FOR THIS:

K B Murov
Kenneth B. Murov, Esquire
Counsel for Intervenor
690 J. Clyde Morris Boulevard
Suite D
Newport News, VA 23601
757-595-2100
757-595-7199 (fax)

HAVE SEEN AND OBJECT:

Samuel B. Davis, Jr.
Samuel B. Davis, Jr.

HAVE SEEN:

WAIVED PURSUANT TO RULE 1:13

James Ellenson
James Ellenson, Esquire
2700 Washington Avenue, Suite 205
Newport News, VA 23607
Counsel for Plaintiff

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

LOUISE BARCLAY DAVIS
now the ESTATE OF GLADYS LOUISE BARCLAY
successor in interest

Plaintiff

v. CHANCERY NO.: 27095-RF

SAMUEL BUNYAN DAVIS, JR.
Defendant

ORDER

THIS CAUSE came the 3rd day of December, 1999 upon Plaintiff's notice and motion to classify $96,959.17 and other property held by the Clerk of the Circuit Court of the City of Newport News as marital property and then equitably divide said property by allocating 50% of the aforesaid cash and other property to Plaintiff, personal service of Defendant, Defendant's motion to disqualify the Honorable James C. Godwin, Defendant's motion to disqualify counsel for Plaintiff, Defendant present and appearing pro-se, Plaintiff's counsel present, the evidence heard ore tenus, and was argued by counsel for Plaintiff and by Defendant individually.

It Appearing to the Court that the following facts have been established:

1. That $96,959.17 is being held by the Clerk of the Circuit Court of the City of Newport News in Chancery #19129-RW.

Exhibit No. 5

2. That the aforesaid money and other property that is the subject matter of Chancery #1`9129-RW accrued before the separation of Plaintiff and Defendant on June 22, 1995.

3. That prior to the hearing the Defendant has made no appearance at any hearings including the Commissioner's hearing and the hearing to enter the final decree in that cause.

4. That Defendant failed to answer the Interrogatives propounded in this cause and failed to comply with the Request for Production, and therefore failed to identify the $96,959.17-RW and other property in Chancery #19129-RW as marital property in the divorce suit thereby denying Plaintiff an opportunity to seek to classify said property as marital property and to seek equitable distribution of said property.

5. That the Commissioner's Report was ratified, confirmed, and approved in all respects in the final decree of divorce, and specifically required Defendant on page 8 to provide an accounting of certain assets so that the same could be valued for purposes of equitable distribution, and Defendant heretofore has not complied with this requirement.

UPON CONSIDERATION WHEREOF and for good cause shown, the following is ADJUDGED, ORDERED, AND DECREED:

A. The $96,959.17 held by the Clerk of the Circuit Court of the City of Newport News in Chancery #19129-RW is classified as marital property arising out of the marriage of Plaintiff and Defendant, said property is

subject to equitable distribution pursuant to Virginia Code Section 20-107.3 and the Court having considered the statutory factors set forth on Virginia Code Section 20-107.3E as noted in the Commissioner's report herein, the Clerk of the Circuit Court of the City of Newport News shall disburse said money as follows: to the Estate of Gladys Louise Barclay the cash amount of $48,479.58, and to Defendant Samuel B. Davis, Jr. the cash amount of $48,479.59.

B. That any other property not yet liquidated in Chancery #19129-RW is also classified as marital property arising out of marriage of Plaintiff and Defendant, said property is subject to equitable jurisdiction pursuant to Virginia Code Section 20-107.3 as noted in the Commissioner's report herein, any other property in Chancery #19129-RW not yet liquidated shall be divided equally between Plaintiff and Defendant.

C. Plaintiff's request for attorney fees and costs is denied.

D. Defendant's motion to disqualify the Honorable James C. Godwin is denied.

E. Defendant's motion to disqualify counsel for Plaintiff is denied.

ENTERED this 6th day of January 2000.

James C. Godwin

I ask for this:

Kenneth B. Murov p.q.

Kenneth B. Murov, Esquire
JONES, BLECHMAN, WOLTZ & KELLY, P.C.
600 Thimble Shoals Boulevard
Newport News, Virginia 23606
Telephone: (757) 873-8048
Facsimile: (757) 873-8103

Have Seen:

_____ p.d.

Samuel B. Davis, Jr.
Pro se
437 Winterhaven Drive
Newport News, VA 23606

192615.1

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

McKINLEY SIMMONS,
Plaintiff

v. CHANCERY NO. . 19129-S

S. B. DAVIS, JR.
40 Barclay Road
Newport News, Virginia 23606,
Defendant.

BILL OF COMPLAINT

Your plaintiff, McKinley Simmons, respectfully represents as follows:

1. On March 18, 1985, plaintiff and defendant entered into a land trust agreement designated as Simmons Land Trust. Plaintiff was the beneficiary and the defendant was the trustee. A copy of said land trust is attached hereto and marked Exhibit "A".

2. According to the terms of this land trust defendant was obligated to collect certain mortgage payments in reference to five specific pieces of real estate situated in the city of Newport News.

3. One of the properties mentioned in paragraph two above is lots 27 and 28 in block 121 in the city of Newport News.

Exhibit No. 6

4. A deed of trust on the property described in paragraph three above was entered into by and between defendant as trustee of Simmons Land Trust and Dalton Enterprises, Ltd., a Virginia limited partnership, on Mar 13, 1986.

5. Since June of 1988, Dalton Enterprises, Ltd., has not made any mortgage payments to defendant.

6. Plaintiff has repeatedly demanded that defendant foreclose on the property in question. Defendant has repeatedly refused to do so.

WHEREFORE, plaintiff prays that the court enter a decree ordering defendant to foreclose on the property described in paragraph three above; that the court order defendant to give a full accounting of all monies received and and all actions taken by him as trustee and to terminate the trust agreement, that he be awarded his costs and attorney's fees expended in this suit; and for such other and further relief as to equity may seem meet and the nature of his case may require.

McKinley Simmons
McKinley Simmons

James S. Ellenson
James S. Ellerson
P.O. Box 531
Newport News, Virginia 23607

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

McKINLEY SIMMONS,
Plaintiff

v. CHANCERY NO. 19129-S

S. B. DAVIS, JR.
40 Barclay Road
Newport News, Virginia 23606,
Defendant.

ANSWER AND CROSS BILL OF COMPLAINT

Your defendant, S. B. Davis, Jr., for answer to the Bill of Complaint exhibited against him says as follows:

1. The allegations contained in paragraph 1 are admitted.

2. The allegations contained in paragraph 2 are denied and the defendant says his only duty under the land trust agreement was to hold legal title to real and personal property and to dispose of same as directed by the beneficiary.

3. As directed by the beneficiary, McKinley Simmons, this defendant conveyed lots numbered 27 and 28 in block 121 in the City of Newport News to Dalton Enterprises, Ltd., a Virginia partnership.

4. A promissory note secured by a deed of trust on

Exhibit No. 7

the above property was executed by Dalton Enterprises Ltd. To Ralph M. Goldstein and/or Richard W. Hudgins, trustees in the principal amount of $41,000.00 payable to S. B. Davis, Jr. trustee of Simmons Land Trust, copies of which are attached hereto and marked Exhibit "1" and Exhibit "2" respectively.

CROSSBILL OF COMPLAINT

Your defendant, S. B. Davis, Jr., would respectfully represent as follows:

A. That Simmons Land Trust agreement entered into by S. B. Davis, Jr. and McKinley Simmons was in contemplation of funding the construction business of McKinley Simmons t/a Simmons' construction Co., 762 Norwood Cr., Hampton, VA 23661, State Registration #023637, the plaintiff at that tim being married, separated from his wife and thus unable to freely own and convey property.

B. That his defendant proceeded to fund the plaintiff's construction business, purchased lots for his benefit and advanced funds for the construction of dwellings.

C. That this defendant agreed to fund construction of a dwelling in Gloucester County for a co-worker of the plaintiff provided plaintiff provided proper contracts were entered into, but the plaintiff undertook the project without proper contracts using funds furnished him by this defendant which were furnished him for other purposes.

WHEREFORE, this defendant prays that this court take jurisdiction of the entire dispute between the parties hereto; that the deed of trust by Dalton Enterprises Ltd. Be foreclosed on with the proceeds of the sale being paid into this court; that the equities of the parties in the various

properties be determined and the properties be sold at public or private sale; that this defendant be awarded his costs and attorney's fees expended in this suit and for such other and further relief as to equity may seem meet and the nature of his case may require.

S. B. Davis, Jr.

CERTIFICATE OF MAILING

I certify I mailed a true copy of the foregoing ANSWER AND CROSSBILL OF COMPLAINT, postage prepaid, to James S. Ellenson, counsel of record for the plaintiff at P. O. Box 531, Newport News, VA 23607.

This **22nd** day of June 1989.

L. J. Redding
L. J. Redding

L. J. Redding
L. J. Redding, p.d.
10504 Warwick Blvd., P.O. Box 1400
Newport News, VA 23601
(804) 599-6500

Seventh Judicial Circuit
OF VIRGINIA
ROBERT P. FRANK
JUDGE

November 7, 1995

Mr. Fred A. Hodnett, Jr.
Assistant Executive Secretary
Supreme Court of Virginia
100 North Ninth Street
Richmond, VA 23219

RE: Louise Barclay Davis v. Samuel Bunyan Davis, Jr.
Chancery #27095-RF

Dear Mr. Hodnett:

The above-captioned matter is a divorce action against a local attorney. All of the Circuit Court Judges have recused themselves and would like for you to appoint a Judge to hear this matter. I am enclosing herewith a copy of the Bill of Complaint for your convenience.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Robert P. Frank
Robert P. Frank
Chief Judge

/rg
Enclosure

Exhibit No. 8

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

LOUISE BARCLAY DAVIS, Plaintiff

v. CHANCERY NUMBER: 27095-RF

SAMUEL BUNYAN DAVIS, JR., Defendant

ORDER

This cause came on the 2nd day of November, 1995, upon notice of pendente lite relief by plaintiff, plaintiff present and represented by counsel,* the evidence heard ore tenus, and was argued by counsel for Plaintiff.

UPON CONSIDERATION WHEREOF AND FOR GOOD CAUSE SHOWN, the following is ADJUDGED, ORDERED, AND DECREED until further order of the Court:

1. That Plaintiff, Louise Barclay Davis, shall have temporary possession of the marital residence located at 40 Barclay Road, Newport News, Virginia no later than December 1, 1995 with Defendant moving out by November 20, 1995;
2. That both parties shall be prohibited from molesting, harassing or bothering the other.
3. That both parties shall be enjoined from concealing, transferring, selling or disposing of any assets without written agreement or Court order.
4. That an award of spousal support is reserved in this matter.

Exhibit No. 9

5. That a copy of this Order shall be served forthwith on the Defendant, Samuel Bunyan Davis, Jr.

***the Defendant was not present but was duly notified**

Enter this **17th** day of **November,** 1995.

Robert P. Frank
Judge

I ask for this:

Kenneth B. Murov p.q.

no appearance made p.d.

66611

JONES, BLECHMAN, WOLTZ & KELLY, P.C.
600 Thimble Shoals Boulevard
Newport News, Virginia 23612-2888

HISTORY COMPLAINT INQUIRY CAD8RIF5

COMPLAINT: P951208331
LOC:A 40 BARCLAY RE APT:DCODES: DM ST FRI:2
INFRG:X JOCUR:INVRT: DNBGH: DIST:C1 DIST:B
SEE-CT: Y LICENSE
VICTIM: ADDRESS: PH:
RPT BY: LOUISE DAVIS ADDRESS PH: 930-3047
REMARKS: ESTRANGED HUS TRES INSIDE
RESD REFUSING TO LEAVE...COMP IS ELDERLY
FEMALE, WILL STBY OUTSIDE

RCVD: 1638 MT: 0502 RO: 0732 RA: 045 DOW: 6

-----UNIT INFORMATION------

UNIT	DPCH	ARVD	CLRD	--COMP#--
22C1	1645	1700	1850	0276 0000
32C2	1645	1700	1749	0224 0000
02C1	1717	1717	1825	0378 0000
0197	1644	1655	1733	0133 0000
9759	1701	1714	1749	0759 0000

Officers that responded to 40 Barclay Road
December 8, 1995 police incident #P951208331:

Unit#	Comp#	Name of Officer
22C1	0276	Ira G. Neal, III
32C2	0224	Michael E. Horton
02C1	0378	Jack W. Yundt
0197	0133	Carolyn Phillips
0759	0759	Marc C. Fogleman

Exhibit No. 10

Supreme Court of Virginia

To All to Whom These Presents Shall Come- Greeting:

Know Ye, That I, A. CHRISTIAN COMPTON.
Justice of the Supreme Court of Virginia, by virtue of the authority vested in me by law, do hereby designate-

HONORABLE . JAMES C. GODWIN, RETIRED .
Judge of the FIFTH JUDICIAL CIRCUIT . to preside
in the CIRCUIT Court of THE CITY OF NEWPORT NEWS

In the case of
Louise Barclay Davis
v.
Samuel Bunyan Davis, Jr.
Chancery Number 27095

To be heard on a date set by the Judge, and continuing until the matters presented to him in this case have been disposed of according to law.

In the place of
THE JUDGES OF THE SEVENTH JUDICIAL CIRCUIT
who are so situated as to render it improper, in their opinion, for them to preside at the trial of said case.

Given under my hand and seal this **22nd** day December 1995

A. Christian Compton (Seal)
Justice of the Supreme Court of Virginia

Exhibit No. 11

MPI
NED MASSEY III PRIVATE INVESTIGATIONS
1328 EAST PEMBROKE AVENUE
HAMPTON VA 23669

PROOF OF SERVICE

VIRGINIA SPECIAL PROCESS SERVER

Newport News Circuit Court – Chancery

CASE NO: 700CH9527095F-02
SERVICE NO: 006

Louise Barclay Davis vs. Samuel Bunyan Davis, Jr.
No address

Service on: Samuel Bunyan Davis Jr.
437 Winterhaven Drive
Newport News, Virginia 23606

I Ned Massey III, am over the age of eighteen (18) years and not a party or otherwise interested in the subject matter in controversy in the action styled Louise Barclay Davis vs. Samuel Bunyan Davis, Jr. , in the Circuit Court for the city of Newport News, Virginia,

On Tuesday, 7 May 1996, I Ned Massey III, did post, Notice of Pendente Lite Hearing, Supplemental Notice of Hearing, dated 02 May 1996, Subpoena In Chancery, Bill of Complaint filed 25 July 1995. Posting took place at 11:49 a.m. and Samuel Bunyan was observed with video

Exhibit No. 12

claiming the aforementioned at 11:51 a.m. 7 May 1996.
Video maintained for review upon request.

FILED

Ned Massey III . 5/9/96 .
Special Process Server Rex A. Davis Clerk
By: illegible D.C.

State of Virginia
City of Hampton, to wit:

Subscribed and sworn to and acknowledged before me this
8 Day of May 1996 by Ned Massey III.

illegible .
Notary Public

My commission expires: 7/31/99 .

VIRGINIA: IN THE CIRCUIT COURT OF THE
CITY OF NEWPORT NEWS

LOUISE BARCLAY DAVIS
Plaintiff

v.

SAMUEL BUNYAN DAVIS, JR.
Defendant

ORDER

This cause came on the 10th of May, 1996 upon notice or pendente lite relief by plaintiff, supplemental notice of hearing, personal service on defendant but defendant not present, plaintiff present and represented by counsel, the evidence heard ore tenus, and was argued by counsel for Plaintiff.

UPON CONSIDERATION WHEREOF AND FOR GOOD CAUSE SHOWN, the following is ADJUDGED, ORDERED AND DECREED until further order of the Court:

1. That Plaintiff, Louise Barclay Davis, is awarded spousal support in the amount of SIX HUNDRED DOLLARS ($600.00) per month from Defendant, Samuel Bunyan Davis, Jr. commencing May 10, 1996 and continuing on the 10th day of each month thereafter until her death, remarriage of further Order of the Court;

2. That the check in the amount of $10,322.80 made payable to Virginia Real Estate Trust be deposited into an interest bearing account under the control of Plaintiff's counsel until further order of the Court;

Exhibit No. 13

3. That Plaintiff is granted an attorney's fee award of $300.00 plus costs of filing fee from Defendant.

4. That Plaintiff and Defendant comply with the provisions set forth/hereinbelow pursuant to Section 20-60.3, code of Virginia (1950), as amended, and notice is given that:

1. Any support payments may be withheld as they become due pursuant to Section 20-79.2 from earnings as defined in Section 63.1-250 without further amendments of this order or having to file an application for services with the Department of Social Services; however, absence of such notice in an Order entered prior to July 1, 1988, shall not bar withholding or support payments pursuant to Section 20-79.1;

2. Support payments may be withheld pursuant to Chapter 13 (Section 63.1-249, et seq of Title 63.1 without further amendments to the order upon application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to Chapter 13 of Title 63.1;

3. The name and date of birth of individual to whom a duty of support is then owed by the person responsible for support: LOUISE BARCLAY DAVIS, born 9/20/30

4. Responsible person information:
Samuel Bunyan Davis, Jr., social security number #229-22-3971; date of birth is March 14, 1927. His address is 437 Winterhaven Drive, Newport News, Virginia. His place of employment is 10368 Warwick Boulevard, Newport News, Virginia. On or after July 1, 1994, a petition may be filed for suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business or

occupation issued by the Commonwealth to a person responsible for support as provided in Section 63.1-2326.1 upon a delinquency of ninety days or more in an amount of $5,000 or more. The order shall indicate whether either or both parents hold such authorization and, if so, the type of authorization held: n/a

5. The amount of periodic spousal support, payment interval, the date payments are due and the date of the first payment is set forth hereinabove.

6. Hospitalization, major medical insurance coverage: There is none for the parties.

7. There are no support arrearages. On or after July 1, 1995, in accordance with Virginia Code Sections 20-78.2 and 63.1-267 an Order for arreages shall constitute a final judgment for said sum in arrears at the judgment rate of interest of nine (9%) as established by Section 6.1-330.54 unless obligee, in a writing submitted to the court, waives the collection of interest.

8. On or after July 1, 1995, the Virginia Driver's license of the delinquent obligor may be suspended upon receipt of notice from the Department of Social Services that the person is delinquent in the payment of child support by ninety (90) days or more or in the amount of $5,000 or more. A suspension or refusal to renew, authorized pursuant to Virginia Code Section 46.2-320 (1950, as amended), shall not be effective until thirty (30) days after receipt by the delinquent obligor of notice of intent to suspend or refuse to renew.

9. Notice is hereby given that in determination of a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law; and

10. Notice that on and after July 1, 1994, the Department of social Services may, pursuant to Chapter 13 of Title 63.1 and in accordance with Section 20-108.2 and Section 63.1-252.2 initiate a review of the amount of support ordered by any court.

ENTERED this 12th of June, 1996.

. James C. Godwin .

I ask for this:

. Kenneth B. Murov p.q.
Kenneth B. Murov

(no appearance made) p.d.
Samuel B. Davis, Jr.

JONES, BLECHMAN, WOLTZ & Kelly, P.C.
600 Thimble Shoals Boulevard
Newport News, Virginia 23612-2888

Jones, Blechman, Woltz&Kelly,P.C.
Attorneys and Counselors at Law

January 7, 1997

E. Thomas Cox, Esquire
Commissioner in Chancery
1215 George Washington Highway
Suite K
Kiln Creek Center
Yorktown, VA 23693

Re: Davis v. Davis
Chancery #27095

Dear Mr. Cox:

As a follow up to the hearing held in your office on December 16, 1996, the following constitutes argument on Mrs. Davis' position on the division of marital assets, spousal support, and an award of attorney fees and costs.

EQUITABLE DISTRIBUTION

Based on a review of all of the statutory factors in Virginia Code Section 20-107.3, Mrs. Davis believes this cause justifies an unequal division of the marital assets in her favor. She envisions the division as follows:

To Wife:

Title and ownership of 40 Barclay Road, Newport

Exhibit No. 14

News, Virginia; jointly titled Real estate located at 628 Lee Street Hampton, Virginia, 515 Homestead Avenue, Hampton, Virginia, and 10368 Warwick Blvd., Newport News, Virginia to be sold and the net proceeds of sale to be split equally between Wife and Husbank; all household furnishings and personal property set forth on the list attached to Wife's Exhibit 7, the Inventory Schedule, with the exception of the personal property of Husband as that he brought into the marriage or inherited; the entire proceeds of the Central Fidelity Bank Trust Account #0942508983; and the entire remaining balance in the Signet Bank account held in Wife's name representing the balance of monies from her personal injury settlement.

Plaintiff's Ex 15
1-9-97

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

LOUISE BARCLAY DAVIS,
Plaintiff

vs. In Chancery No. 27095-RF

SAMUEL BUNYAN DAVIS, JR.
Defendant

OBJECTION TO REPORT OF COMMISSIONER
AND MOTION FOR SUMMARY JUDGMENT

Now comes the defendant, Samuel Bunyan Davis, Jr. and for his objection to the Commissioner's Report and his Motion for Summary Judgement says as follows:

OBJECTION TO REPORT

1. The report of the Commissioner in Chancery does not comply with the Virginia Statute of Equitable Distribution.

2. The report of the Commissioner purports to take jurisdiction of property held by plaintiff and defendant as trustees of Virginia Real Estate Trust, to-wit: 628 Lee Street, Hampton, Virginia; 515 Homestead Avenue, Hampton, Virginia; and $10,255 from the pay-off of the loan of Joseph W. Baker to Virginia Real Estate Trust. Plaintiff and defendant are jointly responsible to the shareholders of

Exhibit No. 15

Services; however, absence of such notice in an Order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to section 20.79.1; that plaintiff be allowed to resume her maiden name of GLADYS LOUISE BARCLAY.

Nothing further remaining to be done in this matter, it is ORDERED stricken from the docket and filed among the ended causes.

ENTERED this **10th** day of **April** 1997.

James C. Godwin

I ask for this:

Kenneth B. Murov p. q.
Kenneth B. Murov
Have seen:

No appearance by Defendant
(unrepresented) p.d. **4/10/97**
Samuel Bunyan Davis, Jr. **JCG**

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

LOUISE BARCLAY DAVIS
Plaintiff

v. In Chancery No. 27095-RF

SAMUEL BUNYAN DAVIS, JR.
Defendant

FINAL DECREE OF DIVORCE

This cause came on this day to be heard upon Plaintiff's bill of complaint; proper and legal service of defendant; the testimony of witnesses taken on behalf of plaintiff before E. Thomas Cox, Commissioner in Chancery, after proper notice to defendant; the report of the Commissioner in Chancery filed with the court; exceptions filed by defendant; and was argued by counsel for plaintiff and defendant.

UPON CONSIDERATION WHEREOF, it appearing to the Court independently of the admissions of either party in the pleadings or otherwise, that plaintiff and Defendant were lawfully married in Newport News, Virginia on September 22, 1956, that both of the parties are of sound mind, over the age of eighteen years and neither of the parties is currently a member of the Armed Forces of the United States on active duty, that plaintiff was and had been an actual bona fide resident and domiciliary of the

Exhibit No. 16

Commonwealth of Virginia for more than six months immediately preceding the commencement of this suit on August 11, 1995; that at the time of the institution of this suit plaintiff resided in Newport News, Virginia and defendant resided in Newport News, Virginia; that the parties last cohabited as husband and wife in the City of Newport News, Virginia; that there were no children born of the marriage; that the parties separated on June 22, 1995, which separation has been continuous, without interruption and without cohabitation since that time, a period of time in excess of one year; that there is no probability of a reconciliation between the parties; and that the plaintiff is entitled to the relief prayed for.

It is, accordingly, ADJUDGED, ORDERED and DECREED that the report of E. Thomas Cox, Commissioner in Chancery, be and it is hereby approved, ratified and confirmed in all respects; and it is further

ADJUDGED, ORDERED and DECREED that Defendant's exceptions to the Commissioner's Report filed herein are hereby overruled, and it is further

ADJUDGED, ORDERED and DECREED that Plaintiff LOUISE BARCLAY DAVIS hereby is granted a divorce from the bonds of matrimony from defendant SAMUEL BUNYAN DAVIS, JR. on the ground that the parties have lived separate and apart, without cohabitation and without interruption, for a period of time in excess of one (1) year; and it is further

ADJUDGED, ORDERED and DECREED that Defendant shall pay to Plaintiff spousal support in accordance with the court's order of June, 17, 1996 in the amount of SIX HUNDRED DOLLARS ($600.00) per month, commencing May 10, 1996 and continuing on the

10th day of each month thereafter until her death, remarriage or further Order of the Court, whichever first occurs; and it is further

ADJUDGED, ORDERED and DECREED that Kenneth B. Murov be appointed Special Commissioner and/or Trustee to convey all right, title and interest in the marital home located at 40 Barclay Road, Newport News, Virginia from Plaintiff and Defendant to Plaintiff; and it is further

ADJUDGED, ORDERED and DECREED that Kenneth B. Murov be appointed Special Commissioner and/or Trustee to convey all right, title and interest in the Real estate located at 437 Winterhaven Drive, Newport News, Virginia from Plaintiff and Defendant to Defendant; and it is further

ADJUDGED, ORDERED and DECREED THAT Kenneth B. Murov be appointed Special Commissioner and/orTrustee to sell and transfer ownership of the real estate located at 628 Lee Street, Hampton, Virginia, 515 Homestead Avenue, Hampton, Virginia and 10368 Warwick Boulevard, Newport News, Virginia. Upon the dale of the properties listed above, the net proceeds shall be equally divided between Plaintiff and Defendant after payment of tax liens and all expenses of sale; and it is further

ADJUDGED, ORDERED and DECREED that the **(three bonds) face Dollars plus interest** bearer bonds in the amount of **Fifteen thousand & x/100** shall be cashed and the net proceeds split equally between Plaintiff and Defendant, but Defendants share shall be reduced by all unpaid spousal in arrears and all expenses and fees to which Plaintiff is entitled in this cause; and it is further

ADJUDGED, ORDERED and DECREED that Plaintiff and Defendant comply with the provisions set forth hereinbelow pursuant to Section 20-60.3 Code of Virginia (1950), as amended, and notice is given that

1. Any support payments may be withheld as they become due pursuant to Section 20.79.1 or Section 20.79.2 from earnings as defined in Section 63.1-250 without further amendments of this order or having to file an application for services with the Department of Social Services; however, absence of such notice in an Order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to section 20.79.1; that plaintiff be allowed to resume her maiden name of GLADYS LOUISE BARCLAY.

Nothing further remaining to be done in this matter, it is ORDERED stricken from the docket and filed among the ended causes.

ENTERED this **10th** day of **April** 1997.

James C. Godwin

I ask for this:

Kenneth B. Murov p. q.
Kenneth B. Murov
Have seen:

No appearance by Defendant
(unrepresented) p.d. **4/10/97**
Samuel Bunyan Davis, Jr. **JCG**

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

Louise Barclay Davis,
And the Estate of Gladys Louise Barclay,
Successor in interest,

Plaintiff

v. Chancery Number: 27095

RF

SAMUEL B. BUNYAN DAVIS, JR., FILED
98AUG 24 AM 9:27
Defendant. REX A. DAVIS, CLERK

MOTION TO REINSTATE

COMES NOW the Plaintiff, Louise Barclay Davis, and the Estate of Gladys Louise Barclay, successor in interest, by counsel, and requests that the above captioned case be reinstated on the docket of this court for the purpose of a determination of attorney fees as allowed by the Virginia Court of Appeals in its decision of November 18, 1997, and other issues in this matter.

LOUISE BARCLAY DAVIS
And the Estate of Gladys Louise Barclay,
Successor in interest

By: K B Murov .
Of Counsel

Exhibit No. 17

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

Louise Barclay Davis,
And the Estate of Gladys Louise Barclay,
Successor in interest,

Plaintiff

v. Chancery Number: 27095

SAMUEL B. BUNYAN DAVIS, JR., FILED
98AUG 24 AM 9:27
Defendant. REX A. DAVIS, CLERK

NOTICE AND MOTION FOR RELIEF

TAKE NOTICE that on the 5th day of October, 1998 at 9:00 a.m. or as soon thereafter as counsel may be heard, the undersigned, by counsel, will move this Honorable Court located at 2500 Washington Avenue, Newport News, Virginia 23607 for the following relief for the reasons set forth hereinbelow:

1. A determination of Plaintiff's interest in certain assets of the Virginia Real Estate Trust that have been ascertained since the entry of the final decree of divorce in this matter, and as provided by the Commissioner's Report in this cause on page 7. Included in this determination will be a request to approve disbursement of money held by the Clerk of the Circuit Court of the City of Hampton.

2. A determination of attorney fees as allowed by the Virginia Court of Appeals in its decision of November 18, 1997. (See decision attached as Exhibit A.)

Exhibit No. 18

3. Appointment of Kenneth B. Murov as Special Commissioner and/or Trustee to convey a right of way adjacent to 40 Barclay Road to the Estate of Gladys Louise Barclay, successor in interest to Plaintiff in this cause.

4. Approval of an accounting of the $10,000 from the Virginia Real Estate Trust previously adjudicated in the divorce proceeding.

5. Approval of disbursement of monies owed to Defendant to satisfy Defendant's obligation to E. Thomass Cox, Commissioner in Chancery.

6. Approval of a plan to dispose of Defendant's personal property previously located at 40 Barclay Road which Defendant refuses to pick up.

7. That the Court approve an accounting of the Bearer bond money received by Plaintiff.

WHEREFORE, Plaintiff prays for the following relief:

A. That the Court determine Plaintiff's interest in certain assets of the Virginia Real Estate Trust, and approve an allocation of money held by the Clerk of the Circuit Court of Hampton.

B. That the Court determine the amount of attorney fees to be awarded to Plaintiff's attorney as allowed by the Virginia Court of Appeals decision;

C. That the Court appoint Kenneth B. Murov as Special Commissioner and/or Trustee to convey a right of way to the Estate of Gladys Louise Barclay, successor in interest to Plaintiff;

D. That the Court approve an accounting of the $10,000 received from the Virginia Real Estate Trust;

E. That an order be entered allowing payment of monies due Commissioner E. Thomas Cox from Defendant from the money due Defendant in this cause;

F. That the Court approve an order disbursing Bearer bond money due Defendant;

G. An award of attorney's fees and court costs incurred herein; and

H. Such other and further relief as to equity may seem meet and the nature of this case may require.

LOUISE BARCLAY DAVIS
and the Estate of Gladys Louise Barclay,
successor in interest

By K B Murov

Kenneth B. Murov, p.q.
JONES, BLECHMAN, WOLTZ & Kelly,P.C.
P. O. Box 12888
Newport News, Va 23612-2888
(757) 873-8048

Office of Discreet Inquiry
1328 East Pembroke Avenue
Hampton, Virginia 23669
Business License 11-1722

MPI

PROOF OF SERVICE

STYLE Davis v. Davis CASE # 27095
VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS
SERVED: SAMUEL BUNYAN DAVIS, JR.
437 WINTERHAVEN DRIVE
NEWPORT NEWS, VA 23606

Is the name and address of the person upon whom service of the following is to be made

( ) Notice of Motion for Judgment and
Motion for Judgment
( ) Subpoena in Chancery and
Bill of Complaint
( ) **Notice and Motion for Relief**

I am a private process server. I am over the age of eighteen years and not a party to or otherwise interested in the subject matter in controversy in this case. I served, as shown below, the above-named person upon whom services of process was to be made with copies described above

Exhibit No. 19

Date and time of service **18 Sept 1998 5:05 pm**
Place of service **Riverside Hosp Rm #439**
Newport News, Va
Method of service **xxx** Other

21 Sept 1998 **Ned Massey III**
Date Signature Ned Massey III

NOTARY

Name (Type or Print) **Stephanie M. Cain**
State of Virginia City County of **Hampton**
Subscribed and sworn to affirmed before me
This date by **Ned Massey III**

21 Sept 1998 **Stephanie M. Cain**
Date Signature Stephanie M. Cain

My commission expires **31 Jan 2002**

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

LOUISE BARCLAY DAVIS
and the Estate of Gladys Louise Barclay,
Successor in interest
Plaintiff

v. IN CHANCERY NO. 27095

SAMUEL BUNYAN DAVIS, JR.
Defendant

MOTION TO QUASH MOTION FOR RELIEF

NOW COMES, Samuel Bunyan Davis, Jr. and moves the court to Quash the Motion for Relief for the following reasons:

1. That the matters contained in the Motion are on appeal to the United States Supreme Court.
2. Patricia W. Fromal has recently, October 2, 1998 been appointed Co-trustee of Virginia Real Estate Trust and request time to become acquainted with the nature of the action and acquire representation.
3. All matters pertaining to Samuel Bunyan Davis, Jr. should be continued until Samuel Bunyan Davis, Jr. is released from doctors care. Whereby Samuel Bunyan Davis, Jr. is undergoing recovery from surgery, pneumonia and currently hospitalized.

Filed
10/5/97
No appearance **Samuel Bunyan Davis, Jr.**
no Drs certificate Samuel Bunyan Davis, Jr.
nothing to cause continuance
other than mere allegation

Exhibit No. 20

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF NEWPORT NEWS

LOUISE BARCLAY DAVIS,
and the Estate of Gladys Louise Barclay,
successor in interest
Plaintiff

v IN CHANCERY NO. 27095

SAMUEL BUNYAN DAVIS, JR.
Defendant

ORDER

THIS CAUSE came on the 5th day of October 1998 upon Plaintiff's notice and motion for relief, personal service of said notice upon Defendant, Plaintiff's counsel present, the evidence heard ore tenus and was argued by counsel for Plaintiff.

IT APPEARING to the Court, as follows:

1. That Louise Barclay Died on November 14, 1997 after assuming her maiden name of Gladys Louise Barclay in the Final Decree of Divorce.

2. That Gladys Louise Barclay having died intestate, Kenneth B. Murov and John Churchill qualified in the Circuit Court of the City of Newport News as Co-Administrators of her estate.

Exhibit No. 21

UPON CONSIDERATION WHEREOF and for good cause shown, the following is ADJUDGED, ORDERED and DECREED

1. That Kenneth B. Murov and John Churchill as Co-Administrators of the Estate of Gladys Louise Barclay, successor in interest to Louise Barclay Davis, are hereby substituted as Plaintiff's in this cause.

2. That Plaintiffs' and Defendant's interest in the assets of the Virginia Real Estate Trust having previously been determined to be 50/50, Plaintiffs shall be entitled to 50% of the &8,710.83 held by the Clerk of the Circuit Court of the City of Hampton, but it is Ordered that the entire sum of $8,710.83 shall be disbursed to Kenneth B. Murov and John Churchill as Administrators of the Estate of Gladys Louise Barclay as set forth in the Accounting approved in paragraph five hereinbelow.

3 That Plaintiffs' request for attorney fees having been granted by the November 18, 1997 order of the Court of Appeals of Virginia in this cause, Plaintiffs are arwared attorney fees from Defendant in the amount of $672.00.

4. That Kenneth B. Murov is appointed Special Commissioner and/or Trustee to convey all right, title and interest in and to the right of way adjacent to that real estate located at 40 Barclay Road, Newport News, Virginia, formerly owned by Louise Barclay Davis. This provisions (sic) shall be effective nunc pro tunc to the entry of the final decree in this cause, April 10, 1997.

5. That the Accounting attached hereto as Exhibit A is hereby approved, and to satisfy the liabilities owed by Defendant, Kenneth B. Murov and John Churchill as Administrators of the Estate of Gladys Louise Barclay shall have the authority, power and right to receive the assets set

forth on Exhibit A to the extent said assets are required to satisfy Defendant's obligations set forth on Exhibit A. Co-Administrators Murov and Churchill shall also be entitled to receive from Defendant's share of any proceeds from the sale of 628 Lee Street, Hampton, Virginia, 515 Homestead Avenue, Hampton, Virginia, 10368 Warwick Boulevard, Newport News, Virginia, and any interest of Defendant in the assets of the Virginia Real Estate Trust, such monies as may be required to satisfy obligations owes to Plaintiff's included but not limited to storage fees, fees incurred by Plaintiffs for Plaintiff's personal property and similar expenses. Plaintiffs shall provide written notice to Defendant of the deduction of such expenses from Defendant's share of the aforesaid proceeds and/or assets.

6. In that the final decree of divorce allocated personal property and household furnishings between the parties and in that Defendant has refused to retrieve his personal property notwithstanding written notice to him from Plaintiffs, Plaintiffs shall have the authority to advise Defendant in writing that unless he retrieves his personal property from the storage facility where it is currently store (sic), Plaintiffs shall be relieved of any responsibility for the aforesaid property provided Plaintiffs comply with the provisions of this order.

7. That consistent with the final decree in this cause appointing Kenneth B. Murov as Special Commissioner and/or Trustee to convey the property located at 628 Lee Street, Hampton, Virginia and 10368 Warwick Boulevard, Newport News, the execution by Kenneth B. Murov of contracts to sell the aforesaid property are hereby approved and ratified. Said contracts are attached hereto as Exhibits B and C.

In addition, Kenneth B. Murov is authorized to execute and deliver the deeds to the aforesaid property. Such deeds are attached hereto as Exhibits D and E.

8. That due to the necessity of bringing this cause, Plaintiffs are awarded attorney fees from Defendant in the amount of **$1500** and fees to be satisfied out of Defendant's share of the assets enumerated in paragraph five hereinabove.

9, This cause shall remain on the docket for such action as this cause may require including the ratification and approval of a contract of sale for 515 Homestead Avenue, Hampton, Virginia, and authorization for execution and delivery of the aforesaid property.

Entered this **9th** day of **November**, 1998

James C. Godwin

Judge

I ASK FOR THIS:

Kenneth B. Murov p.q.
Kenneth B. Murov, Esq.
JONES, BLECHMAN, WOLTZ & Kelly,P.C.
600 Thimble Shoals Boulevard
P. O. Box 12888
Newport News, Virginia 23612

Telephone (757) 873-8049

HAVE SEEN:

no appearance by defendant p.d.

Jones, Blechman, Woltz & Kelly, P.C.
Attorneys and Counselors at Law
600 Thimble Shoals Boulevard
Newport News, Virginia
January 26, 1999

R
Call Murov
shouldnt the
designated Judge
deal w/ this.

Mr. Rex A. Davis, Clerk
Newport News Circuit Court
2500 Washington Avenue
Newport News, Virginia 23607-1307

Called 2/4/98
& left
message on
recorder

Re: Davis v. Davis
Chancery No. 27095

Dear Mr. Davis:

Enclosed please find my firm's check in the amount of $19.00 which represents the amount necessary to reinstate this matter. I have also enclosed an Order, which I would appreciate your presenting to the Judge for entry in the above referenced matter. Please forward a certified copy of the Order to me upon entry. If you should have any questions, please do not hesitate to contact me.

With best personal regards, I remain

Very truly yours,

Kenneth B. Murov

KBM/lrc
Enclosure

Exhibit No. 9

Exhibit No. 22

Jones, Blechman, Woltz & Kelly, P.C.
Attorneys and Counselors at Law
600 Thimble Shoals Boulevard
Newport News, Virginia
January 26, 1999

Mr. Rex A. Davis, Clerk
Newport News Circuit Court
2500 Washington Avenue
Newport News, Virginia 23607-1307

FILED
99 JAN 29 AM 10:01
NEWPORT NEWS CIRCUIT COURT
REX A DAVIS CLERK
TESTE:_____DC
DATE_____

RF

Re: Davis v. Davis
Chancery No. 27095
CH9927095-RF

Dear Mr. Davis :

Enclosed please find my firm's check in the amount of $19.00 which represents the amount necessary to reinstate this matter. I have also enclosed an Order, which I would appreciate your presenting to the Judge for entry in the above referenced matter. Please forward a certified copy of the Order to me upon entry. If you should have any questions, please do not hesitate to contact me.

With best personal regards, I remain

Very truly yours,

Kenneth B. Murov

KBM/lrc
Enclosure

2-1-99
Mr. Murov, The fee to reinstate is $10.00. I am refunding the $9.00 overpayment.

Carol Moore

Exhibit No. 23

Exhibit No. 24

BEST AVAILABLE COPY

BK 0208 PG 0075

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

LOUISE BARCLAY DAVIS,
And the Estate of Gladys Louise Barclay,
Successor in interest

Plaintiff

v. Chancery No. 27095-RF

Samuel Bunyan Davis, Jr.,

Defendant

ORDER

This cause came on this day upon Motion for Plaintiff, Louise Barclay Davis, and the Estate of Gladys Louise Barclay, successor in interest, by counsel, to reinstate this cause on the docket and for good cause shown, it is

ORDERED that this cause be reinstated to the docket.

ENTERED this **24th** day of **March** 1999.

I ask for this:

Kenneth B. Murov, p.q.
Kenneth B. Murov
JONES, BLECHMAN, WOLTZ & Kelly, P.C.
600 Thimble Shoals Boulevard
P. O. Box 12888
Newport News, VA 23612
Telephone (757) 873-8048
Fax: (757) 873-8103

Exhibit No. 25

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF NEWPORT NEWS

MCKINLEY SIMMONS, Plaintiff,

v. CHANCERY NO. 19129-RW

SAMUEL BUNYAN DAVIS, JR., Defendant
and

LOUISE BARCLAY DAVIS and the
ESTATE OF GLADYS LOUISE BARCLAY,
Successor in Interest to Louise Barclay Davis
Intervenor.

ORDER

THIS CAUSE came on the 22nd day of March, 2002, upon Intervenor's Request for disbursement, Plaintiff not present, Defendant present, Intervenor present present with counsel, the evidence heard ore tenus and was argued by counsel.

Upon consideration whereof and for good cause shown, it is ADJUDGED, ORDERED AND DECREED as follows:

1. That the Clerk of the Circuit Court of the City of Newport News disburse to the Estate of Gladys Louise Barclay 50% of the current value of all monies being held related to this cause including the monies originally deposited in the amount of $96,959.17 and the amount of $22,039.78.

2. That the Clerk of the Circuit Court of the City of Newport News disburse to Samuel B. Davis, Jr. 50% of the

Exhibit No. 26

current value of all monies being held related to this cause including the monies originally deposited in the amount of $96,959.17 and the amount of $22,039.78.

3. That Defendant's Motion to Recuse and his Cross-Claim are dismissed.

4. That Intervenor's Demurrer to Cross-Claim is denied.

5. That the appeal bond in this cause shall be twice the amount of Defendant Samuel B. Davis, Jr.'s interest in the monies set forth in paragraph 2 hereinabove.

6. That a copy of this Order shall be forwarded by counsel for the Intervenor to Defendant Samuel B. Davis, Jr. at 437 Winterhaven Dr., Newport News, Virginia, and the aforesaid Order will be presented for entry by the Court at 9:30 a.m.

All matters in this suit, with the exception of disposing of Lots 58 and 59 on 27th Street in Newport News, Virginia, and the disbursement of funds now in question were settled by this Court's Order dated July 5, 2000. Plaintiff and Defendant noted objections to the Order but neither perfected an appeal. The property located on 27th Street, Newport News, Virginia has since been conveyed to the Defendant by Paul Kerr, Special Commissioner.

Paragraph 5 of the above-mentioned Court Order provided that no disbursement of funds was to take place until the appeal of Davis v. Davis (Chancery No. 27095-RF) had been concluded. The Supreme Court of Virginia upheld Judge James C. Godwin's ruling that the funds in question were marital property and should be divided 50/50 between Mr. Davis and the Estate of Mrs. Davis.

Nothing further to be done in this case, it is ORDERED that it be stricken from the docket.

ENTERED this 27 day of March, 2002.

Randolph T. West
JUDGE

I ASK FOR THIS:

K B Murov
Kenneth B. Murov, Esquire
Counsel for Intervenor
690 J. Clyde Morris Boulevard
Suite D
Newport News, VA 23601
757-595-2100
757-595-7199 (fax)

HAVE SEEN AND OBJECT:

Samuel B. Davis, Jr.
Samuel B. Davis, Jr.

HAVE SEEN:

WAIVED PURSUANT TO RULE 1:13

James Ellenson
James Ellenson, Esquire
2700 Washington Avenue, Suite 205
Newport News, VA 23607
Counsel for Plaintiff

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF NEWPORT NEWS

Estate of Gladys Louise Barclay, Successor in interest to Louise Barclay Davis, Plaintiff

v. In Chancery No. 27095

Samuel Bunyan Davis, Jr., Defendant

FILED
02DEC-3 AM 8:02
REX A. DAVIS CLERK

To: the Honorable James C. Godwin

PETITION TO INTERVENE

Now comes Virginia Real Estate Trust ("VRET"), a real estate investment trust and petitions for leave of court to intervene for the purpose of recovering the sum of $10,322.80, being the payoff of a deed of trust loan by Joseph Baker, property of VRET and to set aside the final decree of divorce on the grounds of fraud by Louise Barclay Davis and counsel Kenneth B. Murov and to set aside subsequent orders on the grounds of fraud by Kenneth B. Murov and says as follows:

1. That Petitioner and his wife were in the process of liquidating VRET and redeeming the shares of shareholders at the par value of $100. To this end Petitioner sent the payoff of the loan of Joseph Baker with the intent that she continue the liquidation (Exhibit No. 1). Two shareholders, Ruth McAllister and Margaret Bupp, whose names are shown were asking for redemption.

2. In the last paragraph of page one in a letter to E. Thomas Cox, Commissioner in Chancery Kenneth B. Murov states: "title and ownership of 40 Barclay Road, Newport News, Virginia; *jointly titled Real estate* (emphasis added) located at 628 Lee Street Hampton, Virginia, 515 Homestead Avenue, Hampton, Virginia, and"

This letter was entered into the record as Plaintiff's Exhibit 15.

Exhibit No. 27

3 . That 628 Lee Street was titled in the name of "S. B. Davis, Jr. and Louise B. Davis, Trustees of Virginia Real Estate Trust" (Exhibit No. 3).

4. That 515 Homestead Avenue was titled in the name of "Virginia Real Estate Trust " (Exhibit No. 4).

5. That on the property inventory Plaintiff claims an interest of 50% in 628 Lee Street and 515 Homestead Avenue (Exhibit No. 5).

6. That on the property inventory Plaintiff claims an interest of 100% in the payoff of the VRET loan (Exhibit No. 6). This loan is not assigned in the Commissioner's report and is not disposed of in the final decree. That on the property inventory (Exhibit No. 6) Plaintiff stated "Virginia Real Estate Trust" "(We ask that commissioner make no disposition since we don't know value)".

Virginia Real Estate Trust
By: **S. B. Davis, Jr.**
S. B. Davis, Jr. Trustee

Samuel B. Davis, Jr. VSB #6801
Counsel for Virginia Real Estate Trust
437 Winterhaven Drive
Newport News, Virginia 23607
(757) 930-8733

CERTIFICATE

I hereby certify that on the 3rd day of December 2002 I deposited a copy of the foregoing Petition in the U. S. Mail, postage prepaid to Kenneth B. Murov, 690 J. Clyde Morris Boulevard Suite D, Newport News, Virginia 23601.

Samuel B. Davis, Jr.
Samuel B. Davis, Jr.

VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

Estate of Gladys Louise Barclay,
Successor in interest to
Louise Barclay Davis Plaintiff

v. In Chancery No. 27095

Samuel Bunyan Davis, Jr. Defendant

ORDER

This day came Virginia Real Estate Trust by counsel upon its' petition to intervene and the exhibits mailed to Kenneth B. Murov, counsel for the Estate of Gladys Louise Barclay and was argued by counsel.

UPON CONSIDERATION WHEREOF and for good cause shown it is hereby ORDERED that Virginia Real Estate Trust be permitted to intervene in this matter.

Enter: **Denied**
2/14/03
James C. Godwin
James C. Godwin, Judge

I ask for this:

Samuel B. Davis, Jr.
Samuel B. Davis, Jr. VSB #6801
Counsel for Virginia Real Estate Trust
437 Winterhaven Drive
Newport News, Virginia 23607
(757) 930-8733

Exhibit No. 28